



## U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

April 25, 2022

Via ECF

Honorable Ona T. Wang  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *The New York Times Co. et al. v. Federal Bureau of Investigation*,  
22 Civ. 786 (JPC) (OTW)

Dear Judge Wang:

This Office represents the Federal Bureau of Investigation (“FBI”), the defendant in this action brought by plaintiffs The New York Times Company and Alexa Mills (“Plaintiffs”) under the Freedom of Information Act (“FOIA”). I write respectfully on behalf of both parties to request that the Court adjourn *sine die* the initial conference currently scheduled for May 4, 2022, *see* Dkt. No. 9, and instead permit the parties to submit a status report by June 6, 2022.

Initially, because this is an action brought pursuant to FOIA, which in essence seeks review of agency action, the parties respectfully submit that pursuant to Federal Rule of Civil Procedure 26(a)(1)(B)(i) and 26(f), this action is exempt from initial disclosures and the 26(f) conference and report. In addition, the parties understand that pursuant to Local Civil Rule 16.1, this FOIA action is exempt from the requirement of a mandatory scheduling order under Fed. R. Civ. P. 16(b). Accordingly, the parties respectfully request to be relieved from the obligation under the Court’s order dated March 1, 2022, *see* Dkt. No. 9, to provide a case management plan in this matter, which we understand to be designed to fulfill that requirement. Moreover, the parties respectfully submit that such a scheduling order is unnecessary because the parties expect that this matter, like most FOIA matters, will be resolved either consensually by the parties or through motions for summary judgment without discovery. *See Wood v. FBI*, 432 F.3d 78, 85 (2d Cir. 2005); *Carney v. U.S. Dep’t of Justice*, 19 F.3d 807, 812 (2d Cir. 1994).<sup>1</sup>

Next, since the complaint was filed, the government has been reviewing the records at issue in this matter. The FBI intends to make a production of nonexempt, responsive records by May 23, 2022. The FBI’s production of records that it is currently reviewing, and Plaintiffs’ review of those records, may narrow the issues in dispute. Moreover, after the production, the parties intend to confer about what remains in contention.

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<sup>1</sup> One issue that the Court’s order addresses that does not relate to a discovery schedule is whether the parties consent to conducting all further proceedings before a U.S. Magistrate Judge. The parties do consent and will submit a consent form separately.

Accordingly, the parties respectfully request that the Court (i) adjourn *sine die* the initial conference scheduled for May 4, 2022; (ii) relieve the parties of their obligation to file the accompanying letter, as well as a case management plan and scheduling order, currently due on April 27, 2022, *see* Dkt. No. 9; and (iii) permit the parties instead to file a status letter by June 6, 2022, to advise the Court as to what further proceedings the parties anticipate.

Thank you for your consideration of this matter.

Respectfully submitted,

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United States Attorney

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cc: Counsel of record (via ECF)